

**DARKNESS AT NOON
FOR FOREST WORKERS AND
THEIR CHARTER OF DEMANDS ***

B.K. ROY BURMAN

**** Keynote Address at Seminar on
'Rights of Forest Workers'
Convened by National Centre for Labour at Ranchi
on 17 September 1998***

Forest Workers in Population Census of India

The Census of India has categorized full time forest workers as follows: Foresters and related workers (A: 70,517; B: 121,606); Harvesters and gatherers of forest products including lac except log (A: 30,980; B: 46,207); Log fellers and wood cutters (A: 111,981; B: 169,254); Charcoal burners and forest produce processors (A: 14,977; B: 20,533); Loggers and other forest workers (A: 22,846; B: 22,352); Hunters (A: 5,175; B: 7,067); Trappers (A: 3,340; B: 3,216); Hunters and related workers (A: 1,957; B: 2,086).

Note: The figures in parenthesis represent census data; those marked 'A' stand for 1971 Census and 'B' stand for 1981 Census.

Since 1961, in Indian Census, work has been defined as participation in any economically productive activity. Such participation may be physical or mental in nature. Work in this concept means not only actual work but also effective supervision and direction of work. It also includes unpaid work on farm or in family enterprise.

It is interesting to note, that there had been some increase in the overall number of persons retaining forestry and related work as their main occupation during 1981 Census over that during 1971 Census. When the 1991 data are available, the implication of this trend will become clearer. It should be noted here that all the persons enumerated in the Census as main workers in the forestry sector are not necessarily entirely dependent on forestry for subsistence. Some of them may derive income from other sources though their working time is mainly related to forestry sector in one way or the other. Hence, while the census data provide some quantitative indication, the same require to be underpinned by field investigation.

The census data also require a closer look as to whether the approximately two lakh workers in about 5,000 forest villages established by the State Forest Departments have been included

in the category of forest workers. Doubt has arisen about their actual status. Forest villages were constituted by the Forest Department to ensure timely availability of labour in outlying forest areas. They suffered from many inequities. The system was declared by Kerala High Court as ultra vires to the constitution. Besides, the 1978 State Forest and Tribal Welfare Ministers' Conference had recommended conversion of Forest Villages to Revenue Villages. But the working group on Ninth Plan for Tribal Development has recorded their presence even at present. There is a tendency in Census operations in many countries including India not to record information that is not legally admissible. One cannot, therefore, be sure about actually how the forest villages have been enumerated.

Categorization of Forest Workers

I would like to categorize the forest workers as follows:

- a) Full time or part time wage labour employed by Forest Departments, Forest Development Corporations, Cooperatives and ancillary bodies operating in the forestry sector or working as employees of contractors, forest lessees operating in this sector based on rights directly or indirectly obtained from the concerned Forest Departments.
- b) Artisans, craftsmen dependent on forest produce.
- c) Hunters normally inhabiting the forests and fully or partly deriving livelihood (in the form of direct consumption, local barter, wider commercial linkage) by hunting mainly by traditional method including trapping birds and animals.
- d) Extractors of grass, bamboo, logs and timbers as headloads for personal consumption, barter or local sale.
- e) Gatherers of non-wood forest products (NWFPs) for personal consumption, barter or local sale.
- f) Practitioners and users of herbal medicine system.
- g) Farmers particularly belonging to tribal communities and other small and marginal farmers whose economy is by and large subsistence economy, which is to a very substantial extent dependent on forest ecology or changes in forest ecology.

- h) Population affected by creation of sanctuaries, national parks, and closed areas under the Indian Wildlife Protection Act, 1972 or by other activities having bearing on forest ecology.
- i) Population subjected to bio-piracy under bio-diversity convention and or its preceding scientific poaching at national or international levels.
- j) Population adversely affected by manipulation of the endowments of nature through the instrumentality of unscrupulous use of bio-technology.
- k) Participants in social forestry programmes (other than recreational forestry) and Joint Forest Management Programme (JFM) primarily for meeting basic consumption needs or for creating social infrastructure especially meant to serve the vulnerable sections of the society.
- l) Population below the poverty line in the category of forestry work.

Extent of Dependence on Forest

The Committee on 'Forest and Tribals of India' (Government of India) reported in 1982 that the tribal communities have been occupying forested regions from the hoary past and living in harmony with nature. The forests not only provide them food, material to build houses, fuel for cooking, light and warmth, fodder for their cattle, but also satisfy deep-rooted spiritual quest.

A survey done in forest regions of Gujarat revealed that 22-27 percent of the elderly persons and 70-72 percent of the children go to the forests for collection of tubers, leafy vegetables, bamboo shoots and a host of other forest products. A survey conducted in 1980-81 in Bastar district of Madhya Pradesh revealed that in dense forest areas, the elderly persons collect materials from forest in the proportions as follows. Food (31.11%); agriculture and allied activities (11.11%); fuelwood (30.23%); saleable objects (22.22%); socio-religious activities (5.33%). An average household (having two adult members, at least one child and an old person) on an average earns Rs. 1,500 a year (against total annual income of Rs. 1,750) from

sale of NWFPs (non-wood forest products) without any initial input or risk. A study conducted in Andhra Pradesh, Bihar, Madhya Pradesh and Orissa and a study regarding the impact of MFP (minor forest produce) collection on the socio-economic life of tribals in the Panchmahal district of Gujarat conducted in the early 1980s showed that about 35 percent of the earnings of the tribal peoples was from these items.

A recent study carried out in West Bengal shows that while on an average around 17 percent of the income of the tribal households is related to the activities in the forests, in some areas it goes upto 25 percent. It had been reported by a Dehradun F.R.I.- based forester in 1996 that in Rajasthan approximately five million persons belonging to various tribal communities earned their livelihood through collection, transport, processing and marketing of NWFP or MFP. Even in a disturbed and degraded forest of Aravalli, 32 useful items were collected by the tribal peoples.

In Maharashtra, about 30 percent of the diets of the tribal population is obtained from the forests in the form of leaves, vegetables, tubers, fruits, nuts, bamboo, shoots, small animals, honey, etc. In the forests of the southern parts of West Bengal, the tribal peoples collect 27 commercial products and 37 medicinal herbs for humans and animals.

In North-East India, the bulk of the tribal population (except those living in the plains of Brahmaputra valley and Imphal–Barak valleys) lives in the hills. About 70 percent of the region is hilly and mountainous. In the rural areas of the hills, their economy even in the farming sector is primarily related to forest ecology. The tribal peoples in Brahmaputra valley also have their habitats frequently in the proximity of forests. They are partially dependent on forests for maintaining their pattern of life and have to spend considerable time working in the forests.

Taking an overall view, bulk of the 70 million tribal population in India depend to a varying extent on the output of labour input in the forests. But apart from the tribal population, there

are Dalit artisans like the Doms, and Bhanjra (basket makers of north Haryana), who depend on forest products almost entirely for their livelihood.

Currently, with the introduction of Social Forestry and Joint Forest Management Programme, populations even other than the tribals and Dalits are also being drawn into a symbiotic relationship with forest in the economic sphere, apart from traditional, social and cultural spheres in different parts of the country.

Forest is no longer the mysterious wilderness. Its domestic presence is the emerging reality even for many non-tribals, while tribal presence in the forests is becoming more and more problematic.

Extinction of Rights of the Forest Dwellers

Since the early 19th century, the British tried to convert much of the forest to agricultural land and during almost the whole of the 19th century, they encountered tribal resistance.

In their approach to forests, the colonial rulers primarily drew upon the legal epistemology centering the concept of *res nullius* (that which has not been assigned by the sovereign belongs to the sovereign).

But the economic dependence, and in many cases politically organized control of the tribal peoples of their forests, through their traditional social organization, could not be completely ignored by the colonial rulers, faced as they were with relentless armed struggles of the sturdy tribal warriors. In 1894, a Forest Policy Statement was adopted by the British, partially recognizing the tribal rights in respect of forests by calling them privileges. Thus, the core concept of *res nullius* continued to inform the colonial legal system in respect of forests.

In implementation of the forest policy, legal frauds were perpetrated on the peoples. Under some regions, areas intended to be delineated as 'Reserved Forest' or 'Protected Forest' were notified and the affected peoples were required to submit their objections or claims if any, within a period of three months. A forest settlement officer was appointed in each case. He would take the objections and claims into consideration in finally delineating the area. It is alleged that in most cases, the affected people, who were mostly tribals, were not even aware of the notifications and hence hardly any objection was raised or claims proffered. Thus, the legal status of forests changed unaware to the peoples: their resistance mounted up only when the government started operations in the forest according to their working plan. But now the tribal peoples are awakening to the fraud. They are even going to the court for undoing the wrong done to them decades ago. The people of the Ri Bhoi forest in Meghalaya for instance, have challenged in the court, the reservation of their forest made around the beginning of the 20th century.

After independence, nothing was done to undo this legal fraud perpetrated by the colonial rulers. Rather, the tribal claims were further eroded. Forest Policy Statement of 1952 demoted the privileges of 1874 to concessions. On the one hand, resources from tribal areas were siphoned off to support the growing capital intensive industrializing economy; on the other hand, welfare measures were held out to sustain political equilibrium. But the strategy did not work as expected. Apart from insurgency in some parts of the country, there have been militant assertions in the form of regional movements, or radical ideological political movements like naxalism in the tribal inhabited forest tracts in many parts of India.

Forest and Status of Forest Health in India

Land use statistics indicate that 7,488 million hectares of land (22.7 percent of the geographical area of the country) constitute legally defined forest. Forests claimed by the state as owned by it, constituted 77.2 percent of the total forest area in 1949-50, rising to 92.3 percent during 1967-68 and 95.2 percent in 1973. Around 3.01 percent forest area was owned by corporate bodies and 1.7 percent by private owners in the country. Since then state claim to ownership has further gone up.

The area under forests also includes perpetually snow-bound alpine areas, deserts, extensive marshy areas, degraded rocky areas bereft of any vegetation and large stretches of scrubland. The Forest Survey of India in its latest report estimates the forest cover in the country to be about 19.4 percent. But if the dense forest category (which means foliage coverage of 40 percent or more in a unit of area) is considered, the effective forest coverage of the geographic area of the country is currently only 11.7 percent. This is the outcome of a process. During 1951-75, the forest area in the country had receded to the extent of 4.134 million hectares, since then protective measures have been vigorously stepped up and massive afforestation programmes have been put into operation. But even then the recession of forests has not stopped. During 1975-97 another approx. 1.2 million hectares of forest have been laid bare.

Who is Responsible for Recession and Denudation of Forests?

About two decades ago, the Chief Minister of a tribal predominant state in North-East India told me that he was puzzled by the fact that while there was not much denudation of forests and no frequent land slides in his state before scientific forestry and conservation measures were introduced, massive denudation of forests has taken place after the introduction of scientific forestry and conservation measures.

One requires to seriously ponder over the implication of what the tribal leader has observed. One has to examine whether scientific forestry is really scientific? Whether the conservation measures are actually related to all the relevant parameters that require to be taken care of.

Very frequently, shifting cultivation is held out as the main culprit for denudation of forests, particularly in North-East India. But the data published by the Ministry of Agriculture, Government of India, during the sixth plan showed that out of the total environmentally degraded area in the country, not more than 2 percent could be linked to shifting cultivation.

On the other hand, an examination of forest working plans in several states in the late 1980s showed that these gave more importance to balancing of powerful economic interest groups than to ecological considerations. More importantly, it is to be noted that till about two decades ago, while there was much research on commercially valuable timber growing and profit maximizing use of the same, there was not much research on phytosociology or plant community in terms of mutual inter-relationship of plants and also of plant and other biotic (including microbes) and abiotic elements of nature. It is, therefore, difficult to say that much scientific basis for scientific forestry really existed. A serious attempt in this direction has started only recently.

It is also pointed out by some conservationists that monoculture forestry, which was mostly in practice, was violence of nature's way. Particularly the coniferous forest type did not give adequate foliage coverage against soil, water and sun; on other hand, multi-storeyed diversified forests, including those which were not considered to be commercially significant, gave more protection against soil erosion and water splash leading to floods.

While the allegations that forestry operations themselves are responsible for much of destruction of forest should not be accepted without careful examination, these should not also be brushed aside lightly.

It should, however, be recognized that even if forestry as operated by the Forest Departments played a negative role to some extent, the entire responsibility for denudation and degradation of forests cannot be attached to the Forest Departments.

Hurried extension of road network, to serve military and commercial interests, without adequate protective measures against soil erosion, construction of massive dams, and failure to control toxic industrial discharge, are also responsible for damage to forests. Recently biotechnological manipulation for destroying competing species has also been reported.

Such damage and denudation of forests affect the forest workers in two ways:

First, denudation, degradation and recession of forests reduce base of their livelihood. Second, it forces them to depend more on the depleted forest resources thereby accentuating the degradation. While a vicious circle is created through the action of others, the elite strata of the society tend to make a scapegoat of the forest workers for the unfortunate run of things.

Light and Darkness: Hare and Hounds Game in Respect of Forests

As already mentioned, the tribal peoples themselves are on the warpath. Besides, in the long run, depletion and denudation of forests affect the people by way of flood and shortage of goods normally procured even at long distances from forests. It is no longer possible to turn a blind eye to the misdeeds of unscrupulous forest contractors, lessees and many functionaries of the Forest Departments.

The initial reaction of the Indian state was to go in for draconian measures. In 1976, 'forest' was included in the list of concurrent jurisdiction of the union and state through the 42nd Amendment of the constitution. In 1980, Forest (Conservation) Act was passed by the Parliament, banning extraction of trees, except for maintenance of the forest without permission of the Union Government. It caused endless difficulties even to meet the basic needs of the forest dwellers. In some places repair of houses, digging wells for drinking water and such essential works related to the right to live, were held up. Faced with protests and resistance from all quarters, the Act was slightly amended.

Even before the draconian measures were introduced, the government launched a social forestry programme. It included recreational forestry, farm forestry, roadside or canal-side strip forestry, involving village communities in reclamation and afforestation of degraded forests. At the outset, this programme received positive response from most quarters. But later, it was found that rich farmers were taking advantage of the programme to plant

commercially valuable trees even on good agricultural lands. This rendered many cultivators landless agricultural labourers and many of them were forced to migrate to cities to inflate the number of urban slum dwellers. Greening of the countryside took place to a certain extent at the cost of tears and torments of the heart of the marginalized population. Maintenance of the roadside and canal-side forests also proved to be a serious problem. In many states, the government adopted Tree-Patta Scheme. But this caused factionalism in the rural communities and did not prove to be a success.

While all these aberrations surfaced, social activists pressed for a participatory approach to the forestry sector. In 1988, the Union Government came out with a National Forest Policy Resolution, which was passed by the Parliament in December of the same year. The resolution states that the derivation of direct economic benefit must be subordinated to the principal aim of ensuring environmental stability and maintenance of ecological balance including atmospheric equilibrium. The national goal should have to be a minimum of one-third of the total area in the country under forest or tree cover. Minor Forest Produce should be protected and improved so as to continue to provide sustenance to the tribal population.

The Forest Policy Statement of 1988 was followed by an apparently attractive project, namely Joint Forest Management, mainly financed by the World Bank. But here again, the hare and hounds game is taking place.

Joint Forest Management (JFM)

On 1st June 1990, the Ministry of Environment and Forests sent out a circular supporting the involvement of village communities and NGOs in the regeneration, management and protection of degraded forests.

There are state-wise differences in the procedures for identification of the areas to be covered by JFM, unit of operative community, role of traditional tribal leaders, role of Panchayat, involvement of government departments other than Forest Department, procedure for induction of NGOs, status of Forest Protection Committees, etc. An analysis of the JFM

scheme, as in operation in the different states, shows that almost at all levels, the string is held by forest officials. In some states, the JFM scheme is operated even on revenue land. And in many states, the Forest Protection Committee, bypassing the elected panchayats or the traditional leadership structures, are promoted as conduits for implementation of welfare schemes. Thus, dual centres of power at village or village-cluster level are being created dividing the village communities. Most galling is, however, the stipulation directly or indirectly made in different states making availability of JFM to the community dependent on performance appraisal by the Forest Officials. If Joint Forest Management was true to the spirit of the term, performance of the forest officials should also have been subjected to the scrutiny of the local organization of self-government.

Supreme Court's Judgment and Status of Forests Grown Under JFM, Particularly on Revenue Land

In 1997, in a public interest litigation case (C-202 of 1995), the Supreme Court has made a judicial pronouncement that all forests, irrespective of their legal status or ownership, including community forests, come under the purview of the Forest (Conservation) Act of 1980, and any cutting of trees, not covered by the forest working plan approved by the Union Government, is banned. This means considerable chunks of revenue land, particularly so-called waste-land, which by serving as grazing land and as repository of roots, tubers, fruits, edible plants and medicinal herbs grown in nature provide source of livelihood to the rural poor and which have already been covered by the JFM, will automatically come under the control of techno-bureaucrats at the state and union level. The right to life of the rural and tribal poor is now in jeopardy as never before.

Biodiversity Convention and Biopiracy

The Biodiversity Convention adopted during the Earth Summit at Rio de Janeiro in 1992 and ratified by India, requires knowledge and skill of the indigenous population about conservation and use of biodiversity to be respected and documented: but it does not provide

for conferring intellectual property rights to such knowledge systems on the plea that the same belong to public domain, no element of innovation is involved.

Even before the adoption of the convention, many institutions including the Government of India, state governments, universities and research institutions had started to document and publish tribal people's knowledge and use of the floral and faunal varieties in their habitats. It is not infrequently that multinational and national monopoly concerns took advantage of such documentation and went on an extraction spree without taking care about replenishing the stock, as the tribal peoples usually do. Since 1982 the government of India has been implementing an ethno-biological survey project. It has led to controversial practices by vested interests, which have been challenged even by a Government Department in Kerala.

Threat to Indian Democracy

It is not only the right to life of the tribal peoples that is under threat: the Indian democracy is under threat.

India Today (10 August 1998) had published an interview with Shri Suresh Prabhu, Minister of State for Environment & Forests, Government of India. He mentioned that while 3.5 million hectares of land covered by JFM were being looked after by 28,000 village forest protection committees, he planned to extend the programme to 2 lakh villages. In these villages, all developmental activities would be routed through the Forest Administration. This means that the decade's long experiments to strike a balance between bureaucratic structure and democratically constituted panchayat bodies will be given a short shrift. Perhaps, Shri Prabhu himself did not realize the implication of his statement. But the fact that such a statement has been made by a responsible authority at this level should make every one vigilant about the future of Indian democracy.

Charter of Demands

1. A high-powered commission should be set up in every state to review all cases of delineation of forest land and state forest area and to make fresh settlement with the concerned communities.
2. All Forest Working Plans should be reviewed at the Forest Division level by Committees, which would include non-official experts, social activists and tribal representatives.
3. All practices in the name of science which make biopiracy possible should stop until intellectual property rights of the peoples in respect of their knowledge systems are given due recognition under law.
4. All monopoly rights, including those of Forest Development Corporations (FDCs) in respect of trade in forest products, should be abolished. FDCs and their ancillaries should compete in the market but should offer floor price in respect of all commodities.
5. Operation of Forest Protection Act, 1980 not only in areas covered by JFM and social forestry but in all categories of forests, should be monitored by committees at all levels with which tribal representatives, social activists and experts identified by Panchayati raj bodies and/or traditional tribal institutions should be associated.
6. Forest Protection Committees should operate on authority delegated by the Panchayati raj bodies and/or traditional tribal organizations of self-management.
7. Existing structures of self-management of the forest workers should be reviewed and brought in line with the spirit of the Sixth Schedule of the Constitution, which also would require much improvement and strengthening vis-a-vis the apparatuses of the state.
8. Community rights of different orders, of the forest workers in respect of land, forest and land based resources must be recognized, and banking laws, cooperative laws and other laws relating to institutional finance, must be amended to harmonise with the community rights.

9. State-forest workers' relationship must be that of partnership in a frame of multi-tiered sovereignty in respective jurisdictions in the same manner as in the case of Union-state relationship spelt out in the Seventh Schedule of the Constitution.
10. National Policy of Rehabilitation of the project affected forest workers must be formulated in a manner so as to ensure tangible and intangible improvement in the quality of life of such workers in their family and community settings.
11. In constituting biosphere reserve, sanctuaries and national parks, local culture, demographic structure, political economy, social organization and people's system of environment management must be taken into consideration. Besides, people's institutions must be involved in the management of such eco-protection tracts. Indian Wildlife Protection Act, 1972 should not function as a one-dimension techno-bureaucratic operation.

* * * *